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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,554	03/01/2004	Magdy S. Girgis	GRIM66A	9706

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EXAMINER

LEUBECKER, JOHN P

ART UNIT PAPER NUMBER

3739

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/790,554	Applicant(s) GIRGIS, MAGDY S.	
	Examiner John P. Leubecker	Art Unit 3739	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 8-20 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/1/04</u> . | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12, 14, 18 and 20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 12 and 20, the term “horizontally” is indefinite because claim structure is not given any kind of reference orientation to define any portion of the claim structure as being “horizontal” to any other.

As to claims 14 and 20, the term “vertical” is indefinite because claim structure is not given any kind of reference orientation to define any portion of the claim structure as being “vertical” to any other.

As to claims 18 and 20, the term “rearwardly” is indefinite because claim structure is not given any kind of reference orientation to define any portion of the claim structure as extending “rearwardly” to any other.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-4 and 8-19 are rejected under 35 U.S.C. 102(e) as being anticipated by
McMorrow (US 2005/0234303).

McMorrow discloses a stationary handle (14), a stationary blade (12) having a proximal end (13) from which it extends generally normally forwardly from the stationary handle (Fig.1) and a distal end, a tip (18) pivotally attached to the distal end of the stationary blade, a movable handle (16) pivotally attached to the proximal end of the stationary blade and operatively connected to the tip, and an arm (60) operatively attached to the movable handle and the tip and pivoting the tip downwardly when the movable handle is moved towards the stationary handle and comprising a movable blade (26,28,30) wherein said movable blade being pivotally (at 50) attached to the stationary blade and affixed to the movable handle (by 58) for movement therewith so as to allow said movable blade to pivot away from the stationary blade when the movable handle is moved towards the stationary handle ([0036]). As to claims 2 and 3, the spring mechanism described in paragraphs [0030] and [0031] constitutes a lock which locks the movable blade in a desired position by locking the movable handle. As to claim 4, the lock including the movable handle having a distal end with a through bore therethrough (note bushing 66 at end of handle to receive boss 68) which is inherently defined by a boundary. As to claims 8 and 9, tie (58) constitutes a connector which is fixedly attached to the proximal end of the movable handle and proximal end of the movable blade. As to claim 10, the movable blade (26,28,30) extends substantially over the blade plus the tip (note Fig.1). As to claims 11-14, the

movable blade has flat surfaces (note Fig.1) which, depending on how the device is held in space, can be held horizontal or vertical (with respect to a gravity direction). As to claims 15-19, taking the connector as including elements (58) (second portion) and lug (64) (first portion), these elements constitute an “L” shape and are connected as claimed to the movable blade and movable handle.

Allowable Subject Matter

5. Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Franicevic (U.S. Pat. 5,498,231)—it is believed that this reference anticipates many of the same claims as the McMorrow reference. Note handle actuated pivoting tip (16) and movable blade (14).

Atkinson (U.S. Pat. 1,607,788)—note blade (19) which is analogous to the movable blade. However, no handle actuated pivoting tip is disclosed.

Haslinger (U.S. Pat. 1,568,732)—note movable blade (a) and stationary blade (b).

Although tip (c) is connected to a hinge, no connector to the movable handle (m) is provided.

Minson (5,938,591)—note locking mechanism for a dual blade laryngoscope.

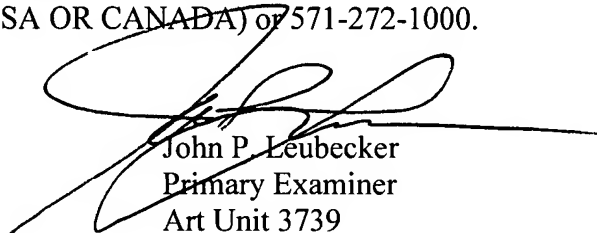
Sakamoto (U.S. Pat. 6,095,972)—note Figure 19.

Stihl (US 2002/0165433)—note movable blade (6).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John P. Leubecker whose telephone number is (571) 272-4769. The examiner can normally be reached on Monday through Friday, 6:00 AM to 2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M. Dvorak can be reached on (571) 272-4764. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



John P. Leubecker
Primary Examiner
Art Unit 3739